IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 223 OF 2007

Shivaji Krishna Bhosale ..Applicant
V/s
The State of Maharashtra ..Respondent.

Mr. Rahul S. Kate, Advocate for the applicant.

Mrs M.H. Mhatre, APP for the State.

CORAM : J.H. BHATIA, J.

DATE : 21ST FEBRUARY, 2007.

P.C.

. Heard Mr. Rahul Kate, learned Counsel for the applicant and Mrs. Mhatre, learned APP for the State.

2. The applicant seeks to be released on bail in Crime NO. 93/2006 registered at Jejuri Police Station under Section 302 r/w section 34 of Indian Penal Code.

3. According to the prosecution case, the deceased Dada left his house on 12/5/2006 at about 7 A.M. along with the present applicant on the motorcycle of the present applicant. At the same time, first informant Rajendra, who is brother of the deceased also left the house and went to his field. At about 6 P.M. Rajendra

returned home. By that time, deceased Dada had not returned. As he used to go along with the present applicant and also remain and stay away from the house on some occasions, the family members did not make any enquiry. On 13/8/2006 at about 6 a.m. one Hari Aagana Guddavat found Dada in injured condition in the filed of Sampat Bhosale. Information was given to first informant Rajendra. He also went to the spot. There were marks to show that Dada was dragged to the field and thrown away. He was lying dead. As per the report deceased Dada had some quarrel with another accused Rajendra Baban Bhandalkar about 8 days prior to the incident. In the evening at about 7 P.M. deceased Dada, present applicant and Rajendra Bhandalkar were seen together on the bridge near Bhosale Wadi Chowk. In view of this, Rajendra lodged a report expressing his suspicion against both the accused.

4. Post mortem report reveals that deceased had suffered certain incised wounds with fracture on the face, skull etc. and he had died due to asphyxia due to cardiac respiratory arrest due to hypovolumic shock due to multiple fractures. At the instance of co-accused Rajendra Bhandalkar the stone, which was allegedly used

to assault deceased Dada, was recovered. There is no other recovery of any incriminating articles from the present applicant or the said Rajendra Bhandalkar.

5. The learned Counsel for the applicant contends that the present applicant had no reason, motive or enemity, to cause death of deceased Dada. He had some enemity with said Dada. On the other hand, it is contended on behalf of the prosecution that the present applicant and co-accused Rajendra Bhandlakar both were seen together along with deceased Dada. Thereafter,Dada was never seen alive. Main evidence against the present applicant is that he was last seen together along with deceased Dada. Taking into consideration the circumstances, if bail is granted the possibility of tampering evidence cannot be ruled out. Therefore, I am not inclined to grant bail to the present applicant.

6. Application stands rejected.

(J.H. BHATIA, J.)